

Voluntary Remediation Program



About the Program

Indiana was one of the first states to address, through statutes, the liability issues associated with buying, selling or developing property contaminated by hazardous substances. In response to the growing need for the Indiana Department of Environmental Management's (IDEM) review and oversight of voluntary investigations and response actions, primarily involving property transactions, the Voluntary Remediation Program (VRP) was established in 1993, pursuant to Indiana Code 13-25-5.

The VRP provides a mechanism for site owners or operators to voluntarily enter an agreement with IDEM to cleanup contaminated property. When the cleanup is successfully completed, IDEM will issue a Certificate of Completion and the Governor's office will issue a Covenant Not to Sue to the cleaned up property. These documents provide assurance that the remediated areas will not become the subject of future IDEM enforcement action.

Implicit in the voluntary nature of the VRP is the recognition that voluntary parties have a choice to participate or not participate in the VRP. Thus, a voluntary party can terminate their participation at any point by written notification to the appropriate VRP staff.

The voluntary nature of the VRP benefits owners, real estate purchasers, lending

institutions and developers. At the same time, the VRP benefits the environment and the public interest by the resulting identification and cleanup of contaminated property.

Eligibility

Any site owner or operator, or a prospective owner or operator, who wishes to clean up property that has been contaminated with petroleum or hazardous substances is potentially eligible to participate in the Voluntary Remediation Program.

An application may be rejected if:

1. A state or federal enforcement action concerning the proposed cleanup is pending; or
2. A federal grant compels IDEM to take enforcement action; or
3. Conditions at the site are considered to be an imminent and substantial threat to human health or the environment.

Cleanups that have already been completed are potentially eligible for the program. The applicant must submit documentation that the clean up satisfies the VRP's requirements and assures that current cleanup criteria have been met.

Application Process

The first step in the Voluntary Remediation process is to complete and submit an application with a \$1000.00 application fee. The application assumes that a site characterization has already been completed on the site.

IDEM has 30 days to make an eligibility decision. An incomplete application is ground for rejection. Incomplete applications will be returned to the applicant within 45 days of receipt with the missing information identified. Incomplete applications may be resubmitted upon revision.

Voluntary Remediation Agreement

The Voluntary Remediation Agreement is a standard document that identifies the obligations of both the applicant and IDEM. Parties seeking assistance under the VRP are expected to cooperate and adhere to certain standards in the investigation of the extent and nature of contamination, the evaluation and recommendation of remedial actions and the level of cleanup attained. In addition, the applicant agrees to reimburse IDEM for the costs that it incurs in reviewing work plans and reports, and for oversight of the cleanup itself. IDEM will provide the applicant with an estimate of review and oversight costs within the Agreement. The Agreement also establishes deadlines for the completion of milestone tasks, and the schedule for payments by the applicant to IDEM. Once the Agreement is signed, the applicant is required to submit a series of work plans and reports for IDEM's review. The first report or plan is required to be submitted to IDEM within 180 days after the Agreement is signed.

These include:

1. A Phase II Investigation Report.
2. A Remediation Work Plan
3. A Remediation Completion Report

The Voluntary Remediation Program application package contains the requirements and guidance for all of these documents.

Public Participation

Public involvement is an essential component of the VRP. The Remediation Work Plan is subject to a 30-day public notice and comment period. During the public notice period, IDEM will place a copy of the Remediation Work Plan in a local repository and invite interested parties to comment. IDEM may hold a public hearing if at least one request is received during the public comment period. Applicants are encouraged to contact any affected parties, community groups and local officials regarding their voluntary cleanup as soon as possible.

Implementation

Upon approval of the Remediation Work Plan, remediation work may begin. The site owner or operator must notify IDEM within 60 days of approval that he or she intends to proceed with implementation of the plan.

Implementation oversight of the Remediation Work Plan is accomplished through a combination of written progress reports and IDEM field oversight. A schedule for progress reporting and operational inspections is required in the Remediation Work Plan.

Cleanup Criteria

Cleanup criteria for sites within the

Voluntary Remediation Program consists of a combination of performance and quantitative standards. The performance standards will essentially apply to all cleanups. Quantitative standards are based on a three tiered approach which includes background levels, generic risk based standards and site specific risk based standards.

Project Completion

When the remediation is completed, the applicant will submit a Remediation Completion Report. The Completion Report contains results of sampling to confirm that cleanup criteria have been met as well as other information necessary to demonstrate that the Remediation Work Plan has been successfully completed. IDEM will split all confirmatory sampling with the Applicant. Once the voluntary cleanup has been successfully completed and payments to IDEM have been made for oversight costs, IDEM's Commissioner will issue a Certificate of Completion and the Governor's office will issue a Covenant Not

to Sue. The Voluntary Remediation process is then complete.

Advantages Of Participating In The Program

The Certificate of Completion and Covenant Not to Sue provide both the applicant and future land owners with an assurance that the voluntary cleanup has been performed properly. This assurance is important to prospective purchasers of the property, and prospective lenders where property is being offered as collateral. Participation in the Voluntary Remediation Program will facilitate the sale and reuse of industrial and commercial properties in the State, and important benefit to all Indiana residents.

Although the Voluntary Remediation process has controls to ensure that cleanups result in a level of protection no less stringent than regulated or enforced cleanups, the process provides both IDEM and participants with greater flexibility in developing remedial solutions. Participants who are accepted in the Voluntary Remediation Program work cooperatively with IDEM which minimizes their legal costs.

*For further information and VRP Application
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